

MEMORANDUM No. 16

Date: March 9, 2012

To: All Staff

From: Miguel A. Santana



Subject: **TRANSITIONAL ISSUES RELATED TO THE DISSOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY – BUDGET ANALYSTS' ROLE**

Over the next several months, the City of Los Angeles (City) will continue to work with the Community Redevelopment Agency, a Designated Local Authority (CRA/DLA) and Successor to the former Community Redevelopment Agency (Former Agency) in order to resolve the various issues and concerns resulting from the dissolution of the Former Agency. Due to the tremendous amount of ongoing work, assistance from the Chiefs and Budget Analysts is needed to help identify, address and/or resolve the issues and concerns as they arise. Pursuant to Assembly Bill (AB) 1x-26, the CRA/DLA's position relative to City Contracts is as follows:

"After February 1, 2012, with only very limited exceptions, Enforceable Obligations do not include contracts with the City. AB1x-26 states that such contracts are invalid and not binding. Although the Supreme Court upheld AB1x-26 on its face, the City may have "as applied" impairment of contract claims with respect to its preexisting contracts with the CRA/DLA. In addition under AB1x-26 if the Governing Board wishes to reenter contracts with the City, then it may do so upon obtaining the approval of the Oversight Board. "

For the January 24, 2012 Enforcement Obligation Payment Schedule (EOPS) and the March 1, 2012 Draft Recognized Obligation Payment Schedule (ROPS), CRA/DLA retained the line items containing City Contracts and Claims for auditing purposes, but pursuant to AB1x-26 it entered a "zero" as the amount owed to the City. The EOPS and ROPS are the CRA/DLA's budgets which include its redevelopment tax increment projections and enforceable obligations. The January 24 EOPS is for the period from January 1 through April 30, 2012 and the March 1 Draft ROPS is for the period from May 1 through June 30, 2012.

If City Contracts and Claims and the amounts owed are not listed on the EOPS/ROPS, the City will not receive payment by CRA/DLA for monies owed. Since January 2012, City Departments have submitted to CRA/DLA a number of claims and demands for outstanding payments owed to the City resulting from preexisting executed agreements, arrangements and contracts between the City and the Former Agency. To date, the CAO received a total of 40 responses (39 Departments and one Special Fund Program) to our prior requests for information relative to City Contracts and monies owed to the City by the CRA/DLA. Attachment One provides a list of the responses, which include: a) 22 Positive responses including 21 Departments and one Special Fund Program; b) Two Departments

provided negative responses but included additional information relative to outstanding items; and, c) Negative responses from 16 Departments.

City Contracts and Claims Evaluation Process

Due to the multitude of City Contracts and Claims submitted, the CRA/DLA's Governing Board at the March 1, 2012 meeting did the following:

1. Adopted its Draft ROPS for May 1 through June 30, 2012;
2. Approved a process for evaluating City Contracts and Claims (Attachment Two) which included a request for the CAO to coordinate the evaluation process on the City's behalf; and,
3. Announced that it will reconsider the Draft ROPS for potential inclusions of certain City Contracts and Claims prior to forwarding the ROPS to its Oversight Board for review and approval. CRA/DLA anticipates that its Governing Board will consider the City Contracts and Claims and amend the ROPS, as appropriate, at its April 5, 2012 Board meeting. Pursuant to AB1x-26, the ROPS will be transmitted to the California Department of Finance and State Controller for their review by April 15, 2012.

Lisa Johnson Smith and Russell Tanaka (Intern) will be the primary contact people in the CAO for the coordination effort. In order to allow sufficient for the evaluation of all the City Contracts and Claims, Chiefs and Budget Analysts should have their Departments provide via email the information listed below **to their CAO Budget Analyst, Lisa Johnson Smith and Russell Tanaka by close of business Wednesday, March 14, 2012**. Negative replies are required.

1. Budget Analysts should forward to their Departments a copy of the CRA/DLA Governing Board report dated March 1, 2012 regarding the Status of City Contracts, Claims and Arrangements (Agenda Item No. 9) for information purposes. The CRA/DLA report shows what information has been submitted to CRA/DLA to date. Lisa Johnson Smith will email a copy of the CRA/DLA report all Chiefs and Budget Analysts.
2. Departments/Special Fund Programs should complete individual ROPS Form (Attachment Three), which is located on CRA/DLA's website, and enter all relevant and necessary information for each Purchase Order, Contract, Claim and Demand in which an outstanding payment is owed to the City by CRA/DLA. Departments should work with the Office of the City Attorney's Office (Noreen Vincent, Curtis Kidder, and Miguel Dager) and CRA/DLA, where appropriate.
3. On the ROPS Form, Departments should include the actual month(s) in the 2012 calendar year in which the payments are due and attach an Excel schedule if payments extend beyond the 2012 calendar year. CRA/DLA will be working on two different ROPS simultaneously: a) the already adopted Draft ROPS (for the months of May and June 2012); and b) a second ROPS for the months from July through December 2012. CRA/DLA expects the second ROPS will be considered by its Governing Board in the first part of May 2012.

4. Departments/Special Fund Programs should submit completed ROPS Form to the CAO. **The CAO will then forward the completed ROPS Form to CRA/DLA for review.**
5. Departments should also complete and submit to the CAO a one page summary sheet with following information:
 - a. Total number of Contracts, Claims and Demands submitted by the Department
 - b. Identify the item number, if applicable, as listed on the January 24, 2012 EOPS, March 1, 2012 Draft ROPS or both
 - c. List the City and CRA/DLA contract number, if applicable
 - d. Description of the Contract, Claim or Demand
 - e. Current obligation amount actual owed to the City (this amount could be less than the total Contract amount)
 - f. Potential budgetary impact if the funds are not received
 - g. Any other relevant information

CRA/DLA states that the City Contracts and Claims cannot be resolved until the Oversight Board is constituted and in place (expected on or before May 1, 2012). CRA/DLA instituted a process to review and propose resolutions to the various City Contracts and Claims (Attachment Two). It will review each City Contract and Claim to determine whether it falls into one of the following seven categories:

1. City Agreements set forth in Sections 34171 and 34178: a) Financing that secures/provides repayment of indebtedness; b) Written agreements entered into within two years after the formation (i.e. 1950) providing start-up funds; or c) Joint Powers Agreements
2. Housing Assets
3. Expenditure of Federal funds
4. Memorandum of Understandings/Cooperation Agreements and other Contracts for services and public works
5. Assets or properties constructed/used for a governmental purpose
6. Enforceable obligations to third parties other than the City (e.g., State grant agreements)
7. Ongoing services agreements provided to the CRA/DLA after February 1, 2012

Copies of the following documents are located on the CRA/DLA's website (<http://www.crala.org/>): a) ROPS Form; b) January 24, 2012 EOPS; c) March 1, 2012 Adopted Draft ROPS; d) Governing Board report on the Draft ROPS (March 1, 2012 Agenda Item No. 7); and e) Governing Board report regarding the Status of City Contracts, Claims and Arrangements (March 1, 2012 Agenda Item No. 9).

Potential Budgetary Impact to City Departments

Due to the wind down of the Former Agency, Budget Analysts should analyze, determine and quantify, where possible, the potential budgetary impacts on their respective City Departments for Fiscal Years 2011-12 and 2012-13. Unless an enforceable obligation exists, CRA/DLA could: a) not complete and/or cancel some City projects; b) not need City

staff to perform some of currently budgeted work; or c) deny some City Contracts or Claims. Potential impacts to City Departments' budgets include:

- a. Loss of CRA/DLA funds which are currently budgeted by the City because revenue and/or reimbursements were not received as anticipated.
- b. City Departments' requests for additional resources as a result of the assumption by City Departments of certain work, assets and/or projects which were previously paid and/or performed by the Former Agency.

Please note that the approval of the Departments' requests will need to be vetted as part of the City's normal budget process and are subject to review and approval by the Mayor and Council. Depending on the City Departments' requests and the particular situation, the City may need additional approvals from other entities such as the CRA/DLA Governing Board and Oversight Board and Federal, State and/or County governments, as applicable, to transfer and/or assume certain work, assets and/or projects previously performed by the Former Agency.

City Working Groups and/or Meetings

The CAO, CLA, CRA/DLA, City Attorney and various City Departments have formed working groups and have been meeting to address some of the various transitional issues and concerns. In situations where CAO staff has not been attending the meetings, please have City Departments keep their respective CAO Budget analyst informed of the activities and outcomes of the various working groups and the meetings. Below is a list of some transitional issues and concerns identified to date:

- Housing Transition Plan. CRA/DLA and the Los Angeles Housing Department (LAHD) have formed a working group to address the transfer of the Former Agency's Housing's assets, projects and loan portfolio to the LAHD, as approved by the Mayor and Council in January 2012.
- Land Use Working Group. CRA/DLA, Department of City Planning (DCP), and the Offices of the Mayor and City Attorney have formed a working group to discuss policy options related to the transfer or preservation of the land-use powers of the Former Agency to the DCP.
- Grants. This includes Metro/Department of Transportation Proposition C, Proposition 1C Infill, Proposition 84 (Parks) and Community Development Block Grants. The CAO, CLA, CRA/DLA, Department of Recreation and Parks (RAP), Department of Public Work, Bureau of Engineering, and the Offices of the Mayor, Council District 10 and City Attorney have met regarding the proposed transfer of the Proposition 84 Grants awards/pending applications of the Former Agency to the RAP.
- Arts' Program Working Group. In the near future, the CLA will convene a working group with CRA/DLA and the Department of Cultural Affairs to discuss the status of the Former Agency's current Art collection and projects.

Attachment One
City Departments Responses to City Contracts and Claims regarding CRA/DLA

On January 11, 2012, CAO sent a memorandum to City Departments requesting a list of all contracts and any monies owed to the City by the Former Agency to be submitted to CAO and CLA by January 13, 2012. On February 24, 2012, CAO sent a second memorandum to City Departments requesting that all new City Contracts and Claims, which were not included as part of the initial request, be submitted to CRA/DLA using their ROPS Form with copies to CAO and CLA by February 28, 2012. Below are the responses from the various City Departments and Special Fund Program received to date:

A. The following 21 Departments and one Special Fund Program provided positive responses:

- | | |
|--------------------------------------|-----------------------------------|
| 1. AARA | 12. Controller |
| 2. Board of Public Works | 13. Cultural Affairs |
| 3. Building and Safety | 14. General Services |
| 4. Bureau of Contract Administration | 15. Housing |
| 5. Bureau of Engineering | 16. Housing Authority |
| 6. Bureau of Street Services | 17. Information Technology Agency |
| 7. Chief Legislative Analyst | 18. Planning |
| 8. City Administrative Officer | 19. Port of Los Angeles |
| 9. City Attorney | 20. Recreation and Parks |
| 10. City Clerk | 21. Transportation |
| 11. Community Development | 22. Water and Power |

B. Animal Services and City Employees' Retirement provided negative responses but included additional information relative to outstanding items which have an impact to their respective Departments.

C. The following 16 Departments provided negative responses include:

- | | |
|------------------------------|------------------------------|
| 1. Aging | 9. Ethics Commission |
| 2. Airports | 10. Finance |
| 3. Bureau of Sanitation | 11. Fire |
| 4. Bureau of Street Lighting | 12. Fire and Police Pensions |
| 5. Convention Center | 13. Personnel |
| 6. Disability | 14. Police |
| 7. El Pueblo | 15. Mayor |
| 8. Emergency Management | 16. Neighborhood Empowerment |

Attachment Two

CRA/DLA Process for Evaluating City Claims

All City agreements, arrangements or contracts (City Contracts), other than certain evidences of indebtedness, require the approval of the Oversight Board in order to be revalidated or reentered. To facilitate the process, CRA/DLA staff has prepared a form, posted on its website, for submission of claims to be considered in the preparation of the ROPS. CRA/DLA staff has instituted the following process to review and propose resolutions to the various City Claims. It is important to note that the City Claims cannot be resolved until the Oversight Board is constituted and in place.

1. Validate the list of City Contracts, reconciling those identified by the City with CRA/DLA accounting records.
2. Determine whether any City Contracts are bonds, notes, certificates of participations or other evidence of indebtedness dated prior to December 31, 2010 and entered into at the time of issuance of the debt and solely for the purpose of securing or repaying such debt and therefore continue to be valid. CRA/DLA Staff has identified eight agreements that potentially fall into this category and is in the process of reviewing them. If so, they will be included on the ROPS.
3. Determine whether any City Contracts are joint powers agreements that continue to be valid.
4. Identify any Claim that is not being made pursuant to a previously existing City Contract. For example, the City's Housing Department has tendered indemnity claims that may not have an identified City Contract. For such Claims, assess whether there is a basis in law to support the Claim.
5. Review and categorize each City Contract:
 - a. City Agreements set forth in Sections 34171 and 34178: a) Financing that secures/provides repayment of indebtedness; b) Written agreements entered into within two years after the formation (i.e. 1950) providing start-up funds; or c) Joint Powers Agreements
 - b. Housing Assets
 - c. Expenditure of Federal funds
 - d. Memorandum of Understandings/Cooperation Agreements and other Contracts for services and public works
 - e. Assets or properties constructed/used for a governmental purpose
 - f. Enforceable obligations to third parties other than the City (e.g., State grant agreements)
 - g. Ongoing services agreements provided to the CRA/DLA after February 1, 2012
- h. Research applicable legal authorities in addition to AB1x-26. CRA/DLA has requested the City to identify any legal authorities it believes are applicable and has also requested outside counsel to review the applicable legal authorities.
- i. Meet with the CAO to review the Claims.
- j. Identify for Governing Board review and consideration, those City Contracts that should be reentered.
- k. Obtain Oversight Board approval for those City Contracts the Governing Board determines should be reentered.

Attachment Three

CRA/LA SUCCESSOR AGENCY
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS)

Third-Party Claim or Request

Payee: _____

Invoice/Contract No. _____ Date Work Completed: _____

Description of Contract, Goods/Services: _____

Reason for Payment: _____

Agreement Type (if applicable): _____

Execution Date (if applicable): _____

Requestor's Name and Company: _____

Contact Phone #: _____ Email Address: _____

Mailing Address: _____

Contact Person at CRA/LA: _____ Title: _____

Total Obligation Amount: _____

List the payment schedule if applicable:

March 2012: _____ August 2012: _____

April 2012: _____ September 2012: _____

May 2012: _____ October 2012: _____

June 2012: _____ November 2012: _____

July 2012: _____ December 2012: _____

[Attach Excel schedule if payments extend beyond December 2012]
